

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

PATRICK S. DITKO, in his capacity as
Administrator of the Estate of Stephen J.
Ditko,

Defendant.

PATRICK S. DITKO, in his capacity as
Administrator of the Estate of Stephen J.
Ditko,

Counterclaimant,

v.

MARVEL CHARACTERS, INC. and
DOES 1-10, inclusive,

Counterclaim-Defendants.

Case No.: 1:21-cv-7957-LAK

Hon. Lewis A. Kaplan

**DECLARATION OF MOLLY M.
LENS IN SUPPORT OF MARVEL
CHARACTERS, INC.'S REPLY IN
SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT**

Oral Argument Requested

I, Molly M. Lens, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a partner at O'Melveny & Myers LLP, counsel for plaintiff Marvel Characters, Inc. ("MCI") in this action, and a member of the Bar of this Court. I submit this declaration in support of MCI's reply in support of its motion for summary judgment based on my personal knowledge and review of the documents referenced herein. If called and sworn as a witness, I could and would testify competently thereto.

2. Attached hereto as **Exhibit 101** is a true and correct copy of excerpts from Roy Thomas' January 20, 2023 deposition transcript in this matter. This excerpt was not included in Exhibit 2 to my May 19, 2023 declaration or Exhibit 84 to my June 30, 2023 declaration, both of which are excerpts from the same deposition.

3. Attached hereto as **Exhibit 102** is a true and correct copy of excerpts from Lawrence D. Lieber's October 25, 2022 deposition transcript in this matter. This excerpt was not included in Exhibit 3 to my May 19, 2023 declaration or Exhibit 86 to my June 30, 2023 declaration, both of which are excerpts from the same deposition.

4. Attached hereto as **Exhibit 103** is a true and correct copy of excerpts from Lawrence D. Lieber's January 7, 2011 deposition transcript in *Marvel Worldwide, Inv. v. Lisa R. Kirby*, No. 10-141-CMKF (S.D.N.Y.). This excerpt was not included in Exhibit 9 to my May 19, 2023 declaration, which is an excerpt from the same deposition.

5. Attached hereto as **Exhibit 104** is a true and correct copy of excerpts from Stan Lee's December 8, 2010 deposition transcript in *Marvel Worldwide, Inv. v. Lisa R. Kirby*, No. 10-141-CMKF (S.D.N.Y.). This excerpt was not included in Exhibit 10 to my May 19, 2023 declaration, which is an excerpt from the same deposition.

6. Attached hereto as **Exhibit 105** is a true and correct copy of excerpts from Stan Lee's May 13, 2010 deposition transcript in *Marvel Worldwide, Inv. v. Lisa R. Kirby*, No. 10-141-CMKF (S.D.N.Y.). This excerpt was not included in Exhibit 13 to my May 19, 2023 declaration or Exhibit 88 to my June 30, 2023 declaration, both of which are excerpts from the same deposition.

7. Attached hereto as **Exhibit 106** is a true and correct copy of excerpts from Stan Lee's November 18, 2003 deposition transcript in *Stan Lee v. Marvel Enterprises, Inc.*, No. 02-cv-8945 (S.D.N.Y.). This excerpt was not included in Exhibit 15 to my May 19, 2023 declaration, which is an excerpt from the same deposition.

8. Attached hereto as **Exhibit 107** is a true and correct copy of excerpts from Roy Thomas' October 13, 1999 deposition transcript in *Marvel Entertainment Group, Inc. v. Marvin Wolfman*, No. 97-638 (D. Del). This excerpt was not included in Exhibit 16 to my May 19, 2023 declaration, which is an excerpt from the same deposition.

9. Attached hereto as **Exhibit 108** is a true and correct copy of excerpts from Gene Colan's August 20, 1999 deposition transcript in *Marvel Entertainment Group, Inc. v. Marvin Wolfman*, No. 97-638 (D. Del), produced by MCI in this matter with the Bates numbers 2021MARVEL-0032787 – 2021MARVEL-0032958.

10. Attached hereto as **Exhibit 109** is a true and correct copy of July 6, 1942 and April 28, 1942 correspondence between Fawcett Publications, Inc., Timely Comics, Inc., and Abraham Goodman, produced by MCI in this matter (as one document) with the Bates numbers 2021MARVEL-0039527 – 2021MARVEL-0039528.

11. Attached hereto as **Exhibit 110** is a true and correct copy of the decision in *In re Margood Publishing Corporation et al.*, 44 F.T.C. 72 (Aug. 8, 1947), produced by MCI in this matter with the Bates numbers 2021MARVEL-0047419 – 2021MARVEL-0047427.

12. Attached hereto as **Exhibit 111** is a true and correct copy of excerpts from an interview with Stan Lee published in *Cartoonist Profiles* No. 4 (Nov. 1969), produced by MCI in this matter with the Bates numbers 2021MARVEL-0070383 – 2021MARVEL-0070386.

13. Attached hereto as **Exhibit 112** is a true and correct copy of ““So You Want A Job, Eh?” The Gene Colan Interview,” published in *Alter Ego* Vol.1, No. 6 (Autumn 2000) and produced by MCI in this matter with the Bates numbers 2021MARVEL-0071054 – 2021MARVEL-0071065.

14. Attached hereto as **Exhibit 113** is a true and correct copy of excerpts from *Journey into Mystery* Vol. 1, No. 98 (Nov. 1963), produced by MCI in this matter with the Bates numbers 2021MARVEL-0130300 – 2021MARVEL-0130301.

15. Attached hereto as **Exhibit 114** is a true and correct copy of excerpts from *Daredevil Annual* Vol. 1, No. 1 (Sept. 1967), which includes the cover and copyright notice pages omitted in Exhibit 97 of Marc Toberoff’s June 30, 2023 Declaration [Dkt. 90-97].

16. Attached hereto as **Exhibit 115** is a true and correct copy of “All in the Marvel Family,” a transcription of the Merry Marvel Marching Society’s 1965 album, “The Voices of Marvel,” published in *Comic Book Artist* No. 18 (Mar. 2002) and produced by MCI in this matter with the Bates numbers 2021MARVEL-0080224 – 2021MARVEL-0080294.

I declare under penalty of perjury that the foregoing is true and correct, and was executed on July 28, 2023 in Los Angeles, CA.

By: 
Molly M. Lens